

SUMMONS ON COMPLAINT	
THIRTEENTH JUDICIAL DISTRICT COURT COUNTY OF SANDOVAL STATE OF NEW MEXICO 1500 Idalia Road, Building A Bernalillo, NM 87501 Telephone: (505) 867-2376	D-1329-CV-2021-00390 Judge: James Noel
MARK MONDRAGON o/b/o D.M. a minor child, <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> RIO RANCHO PUBLIC SCHOOLS, BOARD OF EDUCATION and GEORGE ARCHULETA in his Individual and official capacity, <p style="text-align: center;">Defendants.</p>	Defendant: George Archuleta 10001 Coors Bypass NW, Apt. 323 Albuquerque, NM 87114-4142

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.

DATED at Bernalillo, New Mexico, this 8th day of April, 2021.

Audrey Garcia
CLERK OF THE COURT

By: /s/Mary Ann Lowe
Judicial Specialist 2



EXHIBIT A

/s/ Jason Bowles

Jason Bowles

Bowles Law Firm

4811 Hardware Dr. N.E. Building D, Suite 5

Albuquerque, New Mexico 87109

Telephone: (505) 217-2680

Facsimile: (505) 217-2681

Email: jason@bowles-lawfirm.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO
RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN

[illegible]

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in _____ county on the _____ day of _____, 20__, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

- [] To Defendant _____ (*used when Defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint*)
- [] To the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (*used when service is by mail or commercial courier service*).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

[] to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (*used when the defendant is not presently at place of abode*) and by mailing by first class mail to the defendant at _____ (*insert defendant's last known mailing address*) a copy of the summons and complaint.

[] to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (*insert defendant's business address*) and by mailing the summons and complaint by first class mail to the defendant at _____ (*insert defendant's last known mailing address*)

[] to _____, an agent authorized to receive service of process for defendant _____.

[] to _____, [parent] [guardian] [custodian] [conservator] [guardian
ad litem]
of defendant _____ (*used when defendant is a minor or an
incompetent person*).

[] to _____, (name of person), _____,
(title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Fees: _____

Signature of person making service

Subscribed and sworn to before me this ____ day of _____, 2021.

Judge, Notary or Other Officer
Authorized to Administer Oaths

My Commission Expires:

Official Title

USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.
2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988, as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013.]

THIRTEENTH JUDICIAL DISTRICT COURT
COUNTY OF SANDOVAL
STATE OF NEW MEXICO

FILED
13th JUDICIAL DISTRICT COURT
Sandoval County
3/15/2021 7:48 PM
AUDREY GARCIA
CLERK OF THE COURT
Jennifer Guzman

MARK MONDRAGON o/b/o
D.M. a minor child,

Plaintiffs,

Case No: D-1329-CV-2021-00390

vs.

Noel, James A.

RIO RANCHO PUBLIC SCHOOLS,
BOARD OF EDUCATION and
GEORGE ARCHULETA in his
Individual and official capacity,

Defendants.

COMPLAINT

Plaintiff Mark Mondragon on behalf of his son D.M., a minor child, by and through his counsel of record, Jason Bowles of Bowles Law Firm, Bob Gorence of Gorence & Oliveros and Todd Bullion of the Law Offices of Todd Bullion, hereby submits his complaint for violations of D.M.'s State and Federal Constitutional Rights and New Mexico Common Law. Damages are sought under 42 U.S.C. § 1983 and the New Mexico Tort Claims Act. These causes of action are brought against George Archuleta in his individual and official capacities and Rio Rancho Public Schools.

JURISDICTION AND VENUE

1. Jurisdiction is proper in New Mexico as all facts giving rise to Plaintiff's claims occurred in New Mexico and all parties reside in New Mexico.
2. Venue is proper in this Court pursuant to NMSA 1978 § 41-4-18 and NMSA 1978 § 38-3-1.

3. A Notice of Tort Claim was timely provided by Plaintiff to Mark Tyndall, Director, Risk Management Division, and V. Sue Cleveland, Ed.D., Superintendent of Schools on February 2, 2021 pursuant to the New Mexico Tort Claims Act.

PARTIES

4. Plaintiff Mark Mondragon is a resident of the State of New Mexico, Sandoval County. He is D.M.'s father and brings suit on D.M.'s behalf.

5. D.M. is a minor child and is also a resident of the State of New Mexico, Sandoval County. At all material times he attended V. Sue Cleveland High School.

6. Defendant Rio Rancho Public Schools is a public school district in the State of New Mexico, Sandoval County. They operate and maintain V. Sue Cleveland High School and employed George Archuleta as a security guard.

7. Defendant George Archuleta is a resident of the State of New Mexico. His county of residence is not known. At all material times Defendant Archuleta was employed as a security guard at V. Sue Cleveland High School.

STATEMENT OF FACTS

8. D.M. is a student at V. Sue Cleveland High School in the Rio Rancho Public School District. The school is located at 4800 Cleveland Heights Rd. NE, Rio Rancho, NM 87144. D.M. is currently in 11th grade. Starting in 9th grade of high school and throughout D.M.'s 10th grade he was repeatedly subjected to unlawful and pretextual searches for drugs on his person by a security guard employed by V. Sue Cleveland High School, George Archuleta.

9. On at least 3-4 different occasions Defendant Archuleta would physically put his hands on D.M. under the pretext of searching him for drugs. During each of these searches Defendant Archuleta inappropriately touched D.M.'s genitals, groping D.M.'s penis and buttocks. These incidents occurred in V. Sue Cleveland High School during the school day.

10. On at least 15-20 different occasions Defendant Archuleta would follow D.M. through the halls in the school and stare at D.M.'s buttocks. This was done in plain view of other students and other employees of V. Sue Cleveland High School.

11. Defendant Archuleta constantly verbally harassed and demeaned D.M. during the school day. This was done in plain view of other students and other employees of V. Sue Cleveland High School.

12. On several occasions Defendant Archuleta threatened to search D.M. again.

13. The most recent pretextual search occurred in the last semester of D.M.'s sophomore year in 2020. In that instance Defendant Archuleta took D.M. to a secluded room to search him for drugs and again groped his penis and buttocks.

14. No drugs were ever found on D.M.'s person during any of these searches.

15. No specific articulable facts exist that would lead a reasonable person to believe that drugs would be found on D.M.'s person.

16. At all pertinent times, Mr. Archuleta was an employee or agent of Rio Rancho Schools and acting within the course and scope of his employment with Rio Rancho Public Schools.

17. Upon information and belief, Archuleta has similarly sexually abused other students at the high school.

18. Archuleta's employment places him in a position of authority giving him power and control over minor children. His position enables him to seek sexual gratification under the guise of performing his duties as a security guard. His position also enables him to isolate his victims.

19. At no point in time did Defendant Archuleta possess adequate factual information to legally justify performing a pat search on D.M.

20. Even if adequate legal justification existed to perform a pat search on D.M. Defendant Archuleta did not have legal justification to grope D.M.'s penis or buttocks.

21. The right of school children to be free from sexual harassment while attending school was clearly established at the time the abuse occurred.

22. The repeated sexual abuse and fear of retaliation and further abuse has caused D.M. a minor child substantial emotional distress.

23. Upon information and belief Rio Rancho Public Schools received funds from the federal government at all material times.

COUNT I:
Violation of 42 U.S.C. sec. 1983, Illegal Search and Seizure
under the Fourth Amendment
Against Defendant Archuleta in his Individual Capacity

24. Plaintiff incorporates all other paragraphs in this complaint by reference.

25. D.M. and Defendant Archuleta are persons for purposes of 42 U.S.C. § 1983.

26. The 4th and 14th Amendments of the United States Constitution vested Plaintiff with a clearly established right to be free from unreasonable warrantless search and seizure. This right was clearly established for children attending public school.

27. Defendant Archuleta violated this right by searching D.M. without reasonable suspicion or other legal justification.

28. Even if legal justification for any search did exist it was patently unreasonable to grope D.M.'s penis and buttocks during a search.

29. The searches were not motivated by a desire to actually find drugs, Defendant Archuleta searched D.M. precisely because he wanted to touch D.M.'s penis and buttocks.

30. Defendant Archuleta performed each search under color of law carrying out a state function and in supposed furtherance of public school policy and custom.

31. Defendant Archuleta acted in the role of a law enforcement officer when he performed these searches.

32. Defendant Archuleta abused a position of authority to sexually abuse and harass D.M., a minor child. His actions were willful, wanton and malicious and warrant an award of punitive damages.

33. D.M. is entitled to damages, punitive damages, reasonable attorneys' fees, and costs of suit.

COUNT II:

**Violations of N.M. Tort Claims Act NMSA 1978 § 41-4-12
Against George Archuleta and Rio Rancho Public Schools Board of Education**

34. Plaintiff incorporates all other paragraphs in this complaint by reference.

35. Defendant Archuleta was charged with carrying out school policy as part of his employment.

36. Upon information and belief Defendant Archuleta's job duties included at all material times detecting whether drugs are present on school grounds. Defendant Archuleta was on information and belief charged with conducting investigative functions and public safety functions which included searching students for drugs.

37. Defendant Archuleta is a law enforcement officer as defined in NMSA 1978 § 41-4-12.

38. Defendant Archuleta committed battery on D.M. when he searched him and groped his penis and buttocks.

39. Defendant Archuleta also seized D.M. in violation of his rights under Article 2 Section 10 of the New Mexican Constitution and in violation of the 4th and 14th Amendments of the United States Constitution.

40. Defendant Archuleta's conduct caused D.M. personal injury and bodily injury including but not limited to emotional distress.

COUNT III:
Violation of N.M. Tort Claims Act § 41-4-12
Against Rio Rancho Public Schools Board of Education

41. Plaintiff incorporates all other paragraphs in this complaint by reference.

42. The Rio Rancho Public Schools Board of Education was responsible for the hiring, training, supervision and retention of Defendant Archuleta.

43. Defendant Archuleta was aided in agency by the Rio Rancho Public Schools in preying upon students.

44. Defendant Rio Rancho Public Schools Board of Education owed a duty to students in their care to adequately supervise their employees.

45. The negligent supervision of Defendant Archuleta allowed him unfettered and unrestricted access to students to sexually abuse and harass while the students were at school.

46. The negligent supervision of Defendant Archuleta proximately caused the causes of action complained of in Count II to occur.

47. Defendant Rio Rancho Public Schools Board of Education is liable for damages to D.M.

COUNT IV:
Violation of N.M. Tort Claims Act § 41-4-6
Against George Archuleta and Rio Rancho Public Schools Board of Education

48. Plaintiff incorporates all other paragraphs in this complaint by reference.

49. Defendants operated and maintained V. Sue Cleveland High School, a building located at 4800 Cleveland Heights Rd. NE, Rio Rancho, NM 87144 .

50. The operation and maintenance of the building included providing security. Defendant Archuleta personally participated in operating the building during his employment as he was employed to provide security.

51. The operation and maintenance of the building included providing a safe environment for students to receive an education in.

52. Defendants negligently operated and maintained the building due to Defendant Archuleta's constant harassment of D.M. and other students.

53. Defendant Archuleta groped D.M. under the guise of searching him for drugs on several occasions.

54. Defendant Archuleta posed a risk of danger to either all male students in V. Sue Cleveland High School or all male and female students at V. Sue Cleveland High School.

55. The security guards at V. Sue Cleveland High School are in a position of authority and it is foreseeable that without safeguards or accountability measures that they may abuse their authority. Minor children in a school setting are particularly vulnerable to abuse by people in positions of authority. The failure to supervise Defendant Archuleta and the failure to take action against Defendant Archuleta as he would publicly stare at D.M.'s buttocks and verbally harass D.M. in plain view of other students and public school employees amounts to negligent operation and maintenance of V. Sue Cleveland High School.

56. The negligent operation and maintenance of the building proximately caused damages to D.M including but not limited to emotional distress.

JURY DEMAND

57. Plaintiff demands a jury trial on all issues so triable.

REQUEST FOR RELIEF

Wherefore, Plaintiff requests prays for the following relief:

1. Award compensatory damages in an amount to be determined at trial;
2. Award Plaintiff his attorneys' fees and costs as allowed by the respective statutes his claims are brought under;
3. That the Court grant Plaintiff all employment benefits he would have enjoyed had he not been retaliated and discriminated against;
4. Award punitive damages in an amount to be determined at trial on Plaintiff's claims under federal law.
5. Grant such other relief as the Court deems just and proper.

Respectfully submitted

/s/ Jason Bowles

Jason Bowles

Bowles Law Firm

4811 Hardware Drive, N.E., Suite D-5

Albuquerque, NM 87109

Telephone: (505) 217-2680

Email: jason@bowles-lawfirm.com

---and---

Robert Gorence

300 Central Ave SW, Suite #1000E

Albuquerque, NM 87102

(505) 244-0214

gorence@golaw.us

---and---

Todd J. Bullion

300 Central Ave SW, Suite #1000E

Albuquerque, NM 87102

Telephone: (505) 452-7674

Email: toddjbullion@gmail.com

THIRTEENTH JUDICIAL DISTRICT COURT
COUNTY OF SANDOVAL
STATE OF NEW MEXICO

FILED
13th JUDICIAL DISTRICT COURT
Sandoval County
3/15/2021 7:48 PM
AUDREY GARCIA
CLERK OF THE COURT
Jennifer Guzman

MARK MONDRAGON o/b/o
D.M. a minor child,

Plaintiffs,

Case No: D-1329-CV-2021-00390

vs.

RIO RANCHO PUBLIC SCHOOLS,
BOARD OF EDUCATION and
GEORGE ARCHULETA in his
Individual and official capacity,

Defendants.

JURY DEMAND

Plaintiffs, by and through their counsel of record, Jason Bowles of Bowles Law Firm, Robert Gorence of Gorence & Oliveros, P.C., and Todd Bullion the Law Office of Todd J. Bullion, hereby demands a six (6) person jury in the above-captioned matter. The fee will be paid when filing this jury demand.

Respectfully Submitted,

/s/ Jason Bowles
Jason Bowles
Bowles Law Firm
4811 Hardware Drive, N.E., Suite D-5
Albuquerque, New Mexico 87109
Telephone: (505) 217-2680
Facsimile: (505) 217-2681
Email: jason@bowles-lawfirm.com

---and---

Robert Gorence
Gorence & Oliveros
300 Central Ave SW, Suite #1000E
Albuquerque, NM 87102

(505) 244-0214
gorence@golaw.us

---and---

Todd J. Bullion
300 Central Ave SW, Suite #1000E
Albuquerque, NM 87102
(505) 452-7674
toddbullion@gmail.com